



ENVIRONMENTAL SERVICES DEPARTMENT

AIR QUALITY DIVISION

1001 N. Central Avenue
Phoenix, Arizona 85004

Technical Guidance # 97-002

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Rule: All Rules where Section 500 contains test method provisions

Issue: What is the intention of the word "shall" when the Rules discuss testing requirements in Section 500 of the Rules? As an example, Rule 311 Sec. 504 states "The Reference Methods in 40 CFR 60, Appendix A, shall be used to determine compliance with the pertinent standards prescribed in this section".

Discussion: The use of the word "shall" in Section 500 of a Rule is intended to specify the test methods to be used *if* emissions testing is required for the facility. It is not intended to require that each and every facility and operation subject to that particular Rule automatically be required to perform testing.

The fact that emissions testing is not an automatic requirement of the Rules is pointed out by Rule 200 Sec. 309.2. It states: "The Control Officer may require a source of air contaminants, by permit or order, to perform monitoring, sampling or other quantification of its emissions or air pollution that may reasonably be attributed to such a source. Before requiring such monitoring, sampling or other quantification by permit or order, the Control Officer shall consider the relative cost and accuracy of any alternatives which may be reasonable under the circumstances such as emission factors, ...".

This interpretation is supported by a phone conversation between Dale Lieb of MCESD and Ginger Vagenas of the EPA Region IX Permits Office. Additional support comes from the EPA's comments on their credible evidence Rule: "EPA, state agencies, and industry routinely rely on many types of information, including engineering calculations, indirect estimates of emissions, and direct estimates of emissions by a variety of means, in order to assess compliance with CAA requirements. Further, since 1992, EPA's Part 70 operating permit regulations have allowed the use of this data in compliance certifications."

Additionally, the use of the word "shall" in Section 500 of a Rule is not intended to require the use of the specified test methods without exception or deviation. The Control Officer may, on a case by case basis, allow changes or alternatives to the particular method specified if the Control Officer determines that the change will produce more accurate, meaningful or representative test results. For example, the sample time could be modified to allow for an eight hour sampling time for a process that has an eight hour start to end time and significant emission variations during the process.

Conclusion: The use of the word "shall" does not automatically require the use of testing to demonstrate compliance. Furthermore, when testing is required by permit or order, the Control Officer may, on a case by case basis, allow changes or alternatives to the particular method specified if the Control Officer determines that the change will produce more accurate, meaningful or representative test results.